

Amend 2 Cal. Code Regs., Section 18427 to read:

§ 18427. Duties of Treasurers and Candidates with Respect to Campaign Statements.

(a) Treasurers. The treasurer of a committee shall verify that to the best of ~~his or her~~ the treasurer's knowledge the committee campaign statements are true and complete and use all reasonable diligence in the preparation of the statements. To comply with these duties the treasurer shall do all of the following:

(1) Establish a system of record keeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately, and sufficient to comply with regulations established by the Commission related to record keeping.

(2) Either maintain the records personally or monitor record keeping by others.

(3) Take steps to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds and the reporting of funds.

(4) Either prepare campaign statements personally or review with care the campaign statements and underlying records prepared by others.

(5) Correct inaccuracies or omissions in campaign statements of which the treasurer knows, and cause to be checked, and, if necessary, corrected, information in campaign statements a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer is aware or should be aware by reason of ~~his or her~~ the treasurer's duties under this regulation and the Act.

(b) Candidates with respect to candidate campaign statements. A candidate shall verify that to the best of ~~his or her~~ the candidate's knowledge ~~his or her~~ the candidate's own campaign statements are true and complete and use all reasonable diligence in the preparation of the

1 statements. To comply with these duties the candidate shall be subject to the same duties
2 imposed upon treasurers as stated in subdivision (a).

3 (c) Candidates with respect to campaign statements of committees they control. A
4 candidate shall verify to the best of ~~his or her~~ the candidate's knowledge that the campaign
5 statements filed by a committee ~~he or she~~ the candidate controls are true and complete and that
6 the treasurer has used all reasonable diligence in the preparation of the statements. To comply
7 with these duties, the candidate shall do all of the following:

8 (1) Ascertain whether the treasurer is exercising all reasonable diligence in the
9 performance of ~~his or her~~ the treasurer's duties including those duties specified under
10 subdivision (a).

11 (2) Take whatever steps are necessary to replace the treasurer or raise the treasurer's
12 performance to required standards, if the candidate knows or has reason to know that the
13 treasurer is not exercising all reasonable diligence in the performance of ~~his or her~~ the treasurer's
14 duties.

15 (3) Review with care the campaign statements prepared for filing by the committee.

16 (4) Correct any inaccuracies and omissions in campaign statements of which the
17 candidate knows, and cause to be checked, and, if necessary, corrected, any information in
18 campaign statements a person of reasonable prudence would question based on all the
19 surrounding circumstances of which the candidate is aware or should be aware by reason of ~~his~~
20 ~~or her~~ the candidate's duties under this regulation and the Act.

21 (5) Perform with due care any other tasks assumed in connection with the raising,
22 spending or recording of campaign funds insofar as the tasks relate to the accuracy of
23 information entered on campaign statements.

1 (6) Unless such steps are required to meet the standards set forth in subdivision (c)(1)
2 through (4), a candidate is not responsible for establishing a record keeping procedure for a
3 committee, monitoring committee record keeping, reviewing campaign finance records other
4 than campaign statements, or personally taking steps to corroborate any information contained
5 on a campaign statement.

6 (d) Committees where no treasurer is designated. If a committee fails to designate a
7 treasurer as required by Government Code Section 84100, the individual or group of individuals
8 primarily responsible for approving the political activity of the committee, as defined in
9 Regulation 18402.1(b), will be considered the treasurer or treasurers and will be subject to all the
10 duties set forth in subdivision (a).

11 COMMENT. This regulation sets out the duties of candidates and treasurers only with respect to
12 campaign statements. Among the duties imposed by this regulation on candidates and treasurers
13 with respect to committee campaign statements is to "cause to be checked, and, if necessary,
14 corrected, any information . . . which a person of reasonable prudence would question based on
15 all the surrounding circumstances of which the treasurer [candidate] is aware or should be aware
16 by reason of ~~his or her~~ the treasurer's [candidate's] duties under this regulation and the Act." The
17 circumstances that trigger a duty to inquire under this standard are limited to those circumstances
18 actually known to the candidate or treasurer and to those circumstances the candidate or treasurer
19 should be aware of in carrying out ~~his or her~~ the candidate's or treasurer's duties under the Act
20 and regulation. They do not include circumstances a candidate or treasurer "might" or "should
21 have known" if the candidate or treasurer had gone beyond ~~his or her~~ the candidate's or
22 treasurer's required duties. For example, Mr. Jones gives Mr. Smith \$100 in cash and instructs
23 him to write a check to the candidate's controlled committee and to conceal the true source of the

1 contribution. The committee reports the contribution received from Smith. If neither the
2 candidate nor treasurer has knowledge of the questionable nature of the contribution and neither,
3 through performance of their respective duties (such as monitoring campaign records or
4 reviewing campaign statements), could have learned facts that would lead one to question the
5 contribution, the candidate and treasurer have no duty of inquiry with respect to the contribution.
6 There is no duty of inquiry even though Smith would have revealed the true source of the funds
7 if he had been asked.

8 Once circumstances are known that raise a question concerning the accuracy of
9 information on a campaign statement, an inquiry is required. It is not possible in a regulation to
10 describe with particularity every factual situation that might trigger a duty to inquire because the
11 circumstances that could arise with respect to any particular campaign transaction are endless.
12 For example, a duty to inquire may be triggered in the case of a contribution as a result of the
13 size of the contribution, the reported source, the likelihood of that source making a contribution
14 of the size reported, the circumstances surrounding receipt, or the manner in which the
15 contribution is recorded in campaign records.

16 The burden of inquiry is likely to fall more heavily upon the treasurer because it is the
17 treasurer, rather than the candidate, upon whom the major record keeping and reporting
18 responsibility falls. Therefore, the treasurer is more likely than the candidate to be the person
19 who, by reason of performance of duties, is aware of or should be aware of facts which would
20 give rise to a duty of inquiry.

21 Note: Authority cited: Section 83112, Government Code. Reference: Sections 81004, 84100,
22 84213 and 91004, Government Code.